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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/619,917	07/20/2000	Toshio Nomura	49982(551)	3874

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EDWARDS & ANGELL, LLP
P.O. BOX 9169
BOSTON, MA 02209

EXAMINER

WISDAHL, ERIC D

ART UNIT	PAPER NUMBER
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2615

9

DATE MAILED: 11/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/619,917

Applicant(s)

NOMURA ET AL.

Examiner

Eric D Wisdahl

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4, 7. 6) ☐ Other: ____

Art Unit: 2615

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “first image is updated by using an image of a region other than the object region of said second image every time a prescribed period of time has elapsed” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 – 3 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Parulski et al. (U.S. Patent 5, 914, 748).

Regarding Claim 1, Parulski discloses an image pickup apparatus taking a first image including only a background but not an object (Figure 1 items 18 and 20) and a second image

Art Unit: 2615

including the object (Figure 1 items 12', 12, and 14), and having a shutter button pressed for releasing a shutter (Figure 4b item 96, Column 4 lines 51 – 67), comprising:

- a time measuring portion measuring a time after said shutter button is pressed (Inherent, Column 4 lines 51 – 67); and
- an output selecting portion outputting an image taken when a first period of time is measured by said time measuring portion as one of said first and second images, and outputting an image taken when a second period of time is further measured by said time measuring portion after the first period of time as the other of said first and second images (Column 4 lines 51 – 67, subject and background output from the CCD after 10 seconds followed by background output after another 10 seconds).

Regarding Claim 2, Parulski discloses the image pickup apparatus according to claim 1, further comprising:

- a region extracting portion using said first and second images for outputting information of an object region of said second image (Column 4 lines 59 – 65, Figure 1 items 22 and 24); and
- a recording portion recording data of positional information of said object region, and one of said second image data and image data included in said object region onto a recording medium (Column 4 lines 59 – 65).

Art Unit: 2615

Regarding Claim 3, Parulski discloses the image pickup apparatus according to claim 1, further comprising:

- a region extracting portion using said first and second images for outputting positional information of an object region of said second image (Column 4 lines 59 – 65, Figure 1 items 22 and 24);
- an image composing portion replacing an image in a region other than said object region of said second image with a prepared background image (Figure 1 items 26, 28, 30 and 32); and
- a recording portion recording data of the image composed by said image composing portion onto a recording medium (Figure 1 items 32 and 26, Column 3 lines 20 – 22, wherein the data is recorded in memory before being output to the display or the printer. Furthermore, it would be obvious to record the composite image to a storage medium, such as a hard drive, floppy disk or cd, for later use).

Regarding Claim 6, Parulski discloses the image pickup apparatus according to claim 1, further comprising:

- a recording portion recording the data of said first image and second image onto a recording medium (Column 4 lines 55 – 58).

Claim Rejections - 35 USC § 103

Art Unit: 2615

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski et al. (U.S. Patent 5, 914, 748) in view of Auty et al. (U.S. Patent 5, 809, 161).

Regarding Claim 4, Parulski fails to disclose the image pickup apparatus wherein:

- said first image is updated by using an image of a region other than the object region of said second image every time a prescribed period is elapsed.

Auty teaches:

- Updating the background image is essential in correctly obtaining the object from the background due to environmental changes which occur after the initial background image is obtained, and that such updates happen at a predetermined time (Column 9 line 16 – Column 11 line 55).

Such an arrangement would allow the background insertion apparatus of Parulski to correctly identify the subject even in a slowly changing background environment.

Therefore, it would have been obvious to one of ordinary skill in the art to include the image pickup apparatus wherein the first image is updated by using an image of a region other than the object region of said second image every time a prescribed period is elapsed.

Regarding Claim 5, see examiners notes for Claim 4.

Art Unit: 2615

Claims 7 – 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski et al. (U.S. Patent 5, 914, 748).

Regarding Claim 7, Parulski fails to specifically disclose the image pickup apparatus according to claim 1, further comprising:

- a notifying portion notifying a timing at which pickup of said first image is finished and a timing at which pickup of said second image is started (although it is noted that the Status LCD, figure 4b item 92, may indeed perform this function).

Official Notice:

It is well known in the art to include a notifying portion for notifying the timing of a picture-taking event, such as the red-flashing LED of a self-portrait mode that blinks in increasingly shorter period of time before the exposure is taken. Furthermore, it would have been obvious to one of ordinary skill in the art to include the notifying portion notifying a timing at which pickup of said first image is finished and a timing at which pickup of said second image is started so as to alert the user to the timing of the end of the first exposure and the beginning of the second exposure(s) further allowing the user the chance to place the subject within the field of view of the image taking apparatus so as to correctly obtain the combination of a first image with just a background and a second image with a background and a subject.

Regarding Claim 8, Parulski fails to specifically disclose that the recording portion records said data in a compressed form.

Official Notice:

Art Unit: 2615

It is well known in the art to record images, or portions of images, in a compressed form so as to allow for more efficient use of space or transmission in a recording medium.

Therefore, it would have been obvious to one of ordinary skill in the art to include the recording portion which records data in a compressed form so as to allow for a more efficient use of space within the recording medium.

Regarding Claim 9, see examiners comments Claim 8.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ferren U.S. Patent 4, 968, 132.

Steffano U.S. Patent 5, 764, 306.

Brady et al. U.S. Patent 5, 684, 898.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric D Wisdahl whose telephone number is (703) 305-4915. The examiner can normally be reached on 9:00 - 6:00 Mon-Thur every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on (703) 308-9644. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 2615

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the customer service representative whose telephone number is (703) 306-0377.

edw



ANDREW CHRISTENSEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600